

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Anthony N. Briggs,)
Plaintiff,) No. 9:13-cv-1348-RMG
v.)
South Carolina Department of Corrections,)
Thomas Cooper, Troy Lyde, and)
Willington Williams,)
Defendants.)

)

ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that Defendants’ motion for summary judgment be granted as to all Plaintiff’s claims asserted under 42 U.S.C. § 1983 and that this Court remand this action to state court for disposition of Plaintiff’s state law causes of action. (Dkt. No. 56). For the reasons set forth below, the Court agrees with and adopts the R&R as the order of the Court.

Background

Plaintiff, a state prisoner proceeding *pro se*, filed this action in state court. (Dkt. No. 1-1). Defendants then timely removed the action to this Court. (Dkt. No. 1). Plaintiff asserts claims arising both under 42 U.S.C. § 1983 and South Carolina state law. On December 5, 2013, Defendants filed a motion for summary judgment. (Dkt. No. 44). Plaintiff then filed a response in opposition to the motion, (Dkt. No. 54), and Defendants filed a reply, (Dkt. No. 55). The Magistrate Judge then issued the present R&R. (Dkt. No. 56). Neither party filed timely objections to the R&R.

Legal Standard

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). This Court may also “receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

Discussion

After review of the record and the R&R, the Court finds no clear error on the face of the record and therefore agrees with and adopts the R&R as the order of the Court. *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). The Magistrate Judge thoroughly examined the factual and legal issues in this case and properly concluded that Plaintiff’s federal claims should be dismissed while his state law claims should be remanded for consideration by the state court.

Conclusion

As set forth above, the Court adopts the R&R as the order of the Court. (Dkt. No. 56). Accordingly, the Court grants Defendants’ motion for summary judgment as to Plaintiff’s claims under 42 U.S.C. § 1983 and those claims are therefore dismissed. However, the Court remands Plaintiff’s remaining state law claims to state court for further proceedings.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

March 27, 2014
Charleston, South Carolina